The Ralph M. Brown Act

Community Planning Groups
June 23, 2007



• Authored by Ralph Milton Brown (1908-1966) a Central Valley assemblyman, the Brown Act was passed in 1953, to safeguard the public's right to access and participate in government meetings within the State.

■ The Brown Act is found at California Government Code Sections 54950-54963.

Intent of the Brown Act

- To ensure that deliberations and actions of CPGs are open and public.
- To ensure meaningful public access to CPG decisions.
- Meetings must be open to the public, held on a regular schedule, follow a noticed agenda.
- No secret ballots.

What Is a Meeting?

- Any congregation of a majority of the members at the same time and place to hear, discuss, or deliberate on any item that is within the subject matter jurisdiction of the board or commission.
- Serial meeting & series of communications
 - □ Beware of e-mail communications. A majority cannot e-mail each other to discuss a matter within the board's subject matter jurisdiction.
 - □ Beware of "serial" contacts." "A to B" and "B to C" can lead to a "collective concurrence."

What is Not a Meeting?

- Individual contacts between a board member and another person.
- Majority of the board members at a:
 - □ Conference open to the public
 - □ Local public meeting
 - □ Open meeting of another body
 - □ Social or ceremonial event

But, cannot discuss board matters among themselves.

Public Contacts

- Communication with member of the public OK.
- If individual contacts a quorum of the board, the board members should not respond outside public meeting deliberations should occur in public.
- One-way transmission of background materials and solitary review by board members OK.

м

When Can Meetings Be Held?

Regular meetings:

□ Agenda posted 72 hours before.

Special meetings:

- □ Called by chair or majority of board members.
- □ 24 hours before meeting: Post agenda. Notify board members in writing. Notice to requesting newspapers.

Emergency meetings:

□ For health and safety emergencies. Not within the purview of CPGs.

Internet Posting of Agendas.

- Brown Act: "... Shall be posted in a location that is freely accessible to members of the public."
- OK to use internet as an supplemental location to post agendas.
- State Attorney General Opinion on 24 hour public kiosk:

 "An agenda may be posted on a touch-screen electronic kiosk accessible without charge to the public 24 hours a day, 7 days a week, in lieu of posting a paper copy of the agenda on a bulletin board."

"Compared to a typical bulletin board, an electronic kiosk offers greater readability, better lighting, increased access for disabled persons, and reduced vandalism."

Opinion did not reach the issue of internet posting of agendas.

100

Where Can Meetings Be Held?

- A meeting facility within the boundaries of the CPG planning area, or if none, the closest one to the planning area.
- Sample Exceptions: To attend multi-agency meetings. To meet with elected officials.
- Meetings must be accessible under the Americans with Disabilities Act of 1990.

Agenda Descriptions

- Brief description of each item 20 words unless complex.
- Include the date, time and location of the meeting.
- Must inform public of scope of the intended plans so public can decide whether to participate.
 - □ Information item
 - □ Action item
- Must be posted in a location:

"freely accessible to members of the public"

Agendas by Mail

- Upon request.
- When agenda posted or upon distribution to a majority, whichever occurs first.
- Annual requests okay but a cost recovery fee allowed.

v

Limited Response to Public Comment on Items Not on Agenda

- Brief response to statements or questions permitted.
- But no discussion, debate, or action.
- Briefly announce or report on member's own activities.
- May ask questions for clarification.
- Refer to staff for:
 - □ Information
 - □ Request to report back
 - □ Direct to place matter on a future agenda



Public Comment

- Regular meeting.
 - May comment on any matter within the board's subject matter jurisdiction -- even if not on the agenda (called "non-agenda public comment")
 - Must be allowed to comment on agenda items.
 - Reasonable regulations, including time limits may be adopted, but must be fair.

- - Special meeting.
 - □ Comments must be allowed on agenda items.
 - □ Board may allow non-agenda comment, but not required.
 - Board must allow criticisms and complaints.

Public comment must be made before action is taken.

Other Public Rights

- Right to record the meeting with an audio or video tape recorder, or take photographs.
- Public cannot be required to register their names to attend a meeting - But voluntary sign-in is allowed.
- Right to review agendas and other writings distributed to a majority of the board.



Standing Committees

- Ongoing
- Specific issue area
- Subject to Brown
 Act notice and
 meeting
 requirements

Ad Hoc Subcommittee

- Focused issue area
- For a finite time
- Council Policy applies
 Brown Act to all
 subcommittees
 regardless of
 composition



Records Retention

 Records must be retained for public review.

 City will establish schedule for records collection and storage.

Disorderly Conduct

If a person willfully interrupts the meets so as to make the orderly conduct of the meeting infeasible, the planning group may cause their removal.

If that is unsuccessful, CGP may order the room cleared and continue the session except that the media may remain. And may readmit persons who were not responsible for the disruption.

Violations of Brown Act

Civil Actions

- Any interested party may begin an action.
- □ The board would have chance to cure and correct actions.
- □ With judgment, action is void.
- Costs & attorney fees may be awarded.

Criminal penalties

- □ With intent to deprive public of information.
- □ Guilty of a misdemeanor.



By implementing and operating under the by laws of Policy 600-24, CPGs will be considered to be in "substantial compliance" with the Brown Act.